



JEFFREY D. FRIEDLANDER  
*Acting Corporation Counsel*

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NEW YORK 10007

RYAN G. SHAFFER  
*Assistant Corporation Counsel*  
E-mail: [rshaffer@law.nyc.gov](mailto:rshaffer@law.nyc.gov)  
Phone: (212) 356-2386  
Fax: (212) 788-9776

January 30, 2013

**BY ECF**

Honorable Robert W. Sweet  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: Schoolcraft v. The City of New York, et al.  
10 CV 6005 (RWS)

Your Honor:

I am the Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, assigned to represent the City Defendants above-referenced matter. City Defendants write to respectfully request that the Court preclude plaintiff from relying, in any way whatsoever, on documents and witnesses which he was ordered to identify no later than January 22, 2014.

**Names and Contact Information**

On January 15, 2014, the Court ordered plaintiff to provide, by January 22, 2014 the names and contact information of all the individuals whose emails and other correspondence was previously produced without that information. The Court stated that as long as plaintiff was not going to rely on these witnesses at trial, the documents bearing the witnesses' names and contact information would remain Attorneys' Eyes Only. On January 24, 2014, City Defendants received only reproductions of the documents bearing Bates Nos. AS10059-AS10144. Plaintiff has not reproduced without redaction the documents previously produced on October 24, 2012 in response to City Defendants' Second Set of Document Requests, Document Request No. 2. As plaintiff has failed to produce the records according to the January 15, 2014 Order of the Court, it is respectfully requested that plaintiff be precluded in discovery, motion practice, and at trial from relying on any of the aforementioned documents, or the information contained therein.

**Witnesses**

Also on January 15, 2014, the Court ordered plaintiff to identify by January 22, 2014 the individuals from the previous productions that plaintiff intended to rely upon as witnesses in this matter. To date, Plaintiff has not complied with this order and has failed to identify any individuals either orally or in writing that he intends to use as a witness at trial. City defendants submit that plaintiff has waived the right to call any witnesses identified within the

documents bearing Bates Nos. AS10059-AS10144 and the documents produced on October 24, 2012 in response to City Defendants' Second Set of Document Requests, Document Request No. 2 at trial in this matter.

**Memoranda Allegedly Given By Plaintiff to Non-Party NYPD Employees and Crime Complaint Reports In Plaintiff's Possession**

The Court also ordered plaintiff to produce any memoranda allegedly given by him to non-party NYPD Employees as well any Crime Complaint Reports in plaintiff's possession by January 22, 2014. Once again, Plaintiff has failed to do so, indicating that he is not in possession of any of those documents. While no request related to this failure is being made at this time, City Defendants respectfully reserve their right to seek spoliation sanctions and/or an adverse inference charge against plaintiff for disposing of these documents during the pendency of litigation.

Accordingly, because plaintiff has violated Your Honor's January 15, 2014 Order he should be sanctioned as set forth herein. Thank you for your consideration of these requests.

Sincerely yours,



Ryan G. Shaffer  
*Assistant Corporation Counsel*  
Special Federal Litigation Division

Encl.

cc:

Nathaniel Smith (By ECF)  
*Attorney for Plaintiff*  
111 Broadway, Suite 1305  
New York, New York 10006

Gregory John Radomisli (By ECF)  
MARTIN CLEARWATER & BELL LLP  
*Attorneys for Jamaica Hospital Medical Center*  
220 East 42nd Street 13th Floor  
New York, NY 10017

Brian Lee (By ECF)  
IVONE, DEVINE & JENSEN, LLP  
*Attorneys for Dr. Isak Isakov*  
2001 Marcus Avenue, Suite N100  
Lake Success, New York 11042

Bruce M. Brady (By ECF)  
CALLAN, KOSTER, BRADY & BRENNAN, LLP  
*Attorneys for Lillian Aldana-Bernier*  
1 Whitehall Street  
New York, New York 10004

Walter A. Kretz , Jr. (By ECF)  
SCOPPETTA SEIFF KRETZ & ABERCROMBIE  
*Attorney for Defendant Mauriello*  
444 Madison Avenue, 30th Floor  
New York, NY 10022

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ADRIAN SCHOOLCRAFT,

Plaintiff,

-against-

THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL MARINO, Tax Id. 873220, Individually and in his Official Capacity, ASSISTANT CHIEF PATROL BOROUGH BROOKLYN NORTH GERALD NELSON, Tax Id. 912370, Individually and in his Official Capacity, DEPUTY INSPECTOR STEVEN MAURIELLO, Tax Id. 895117, Individually and in his Official Capacity, CAPTAIN THEODORE LAUTERBORN, Tax Id. 897840, Individually and in his Official Capacity, LIEUTENANT JOSEPH GOUGH, Tax Id. 919124, Individually and in his Official Capacity, SGT. FREDERICK SAWYER, Shield No. 2576, Individually and in his Official Capacity, SERGEANT KURT DUNCAN, Shield No. 2483, Individually and in his Official Capacity, LIEUTENANT CHRISTOPHER BROSCART, Tax Id. 915354, Individually and in his Official Capacity, LT. TIMOTHY CAUGHEY, Tax Id. No. 885374, Individually and in his Official Capacity, SERGEANT SHANTEL JAMES, Shield No. 3004, Individually and in her Official Capacity, SERGEANT RICHARD WALL, Shield No. 3099, Individually and in his Official Capacity, SERGEANT ROBERT W. O'HARE, Tax Id. 916960, Individually and in his Official Capacity, SERGEANT SONDRAL WILSON, Shield No. 5172, Individually and in her Official Capacity, LIEUTENANT THOMAS HANLEY, Tax Id. 879761, Individually and in his Official Capacity, CAPTAIN TIMOTHY TRAINOR Tax Id. 899922, Individually and in his Official Capacity, and P.O.'s "JOHN DOE" #1-50, Individually and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown) (collectively referred to as "City Defendants"), FDNY LIEUTENANT ELISE HANLON, individually and in her official capacity as a lieutenant with the New York City Fire Department, JAMAICA HOSPITAL MEDICAL CENTER, DR. ISAK ISAKOV, Individually and in his Official Capacity, DR. LILIAN ALDANA-BERNIER, Individually and in his Official Capacity and JAMAICA HOSPITAL MEDICAL CENTER EMPLOYEE'S "JOHN DOE" # 1-50, Individually and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown),

Defendants.

-----X  
Sweet, D.J.,

City Defendants, having moved this Court for an Order to compel plaintiff to provide certain discovery to City Defendants,

ORDER

10-CV-6005  
(RWS)

**NOW**, on motion of Ryan G. Shaffer, Esq., Assistant Corporation Counsel of the City of New York and attorney for the City Defendants,

**IT IS HEREBY ORDERED:**

1. Plaintiff is precluded in discovery, motion practice, and at trial from relying on any documents or information that he was ordered to produce pursuant to the Court's January 15, 2014 Order.
2. Plaintiff has waived the right to call any witnesses identified within the documents bearing Bates Nos. AS10059-AS10144 and the documents produced on October 24, 2012 in response to City Defendants' Second Set of Document Requests, Document Request No. 2 at trial in this matter.

Date:

SO ORDERED:

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Honorable Robert W. Sweet